

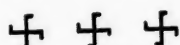
RECORDS OF THE PAST

VOL. IV



PART IV

APRIL, 1905



THE HAMMURABI CODE¹ AND THE CODE OF THE COVENANT

I.—THE DISCOVERY OF THE HAMMURABI STELE

IN the early winter of 1901-02 there was unearthed at Susa, the capital of ancient Susiana, or Elam, the most important monument of early civilization yet discovered—a law-code antedating the oldest hitherto known by upwards of a thousand years.

The French government began the work of uncovering the old Elamite capital some 20 years ago. The director-general of 1884-86, M. Dieulafoy, who almost entirely uncovered one royal palace and sent many interesting monuments to the Louvre, was succeeded by M. J. de Morgan, a man well trained by experience in the Egyptian field. Ten years of work under M. de Morgan brought the excavation down to the foundation of the ruined city. There Hammurabi's famous law-code was found graven in the archaic Babylonian cuneiform on a broken block of diorite 7 ft. 4 in. in height. The 3 fragments into which the monolith had been broken were easily rejoined and thus completed, the stele was sent to the Louvre. In October, 1902, the great discovery was made known to the world in photogravure, transliteration and translation.²

¹ For translation of the Hammurabi Code see RECORDS OF THE PAST, Vol. II, Part III, March, 1903, pp. 66-90.

² V. Scheil, *Délégation en Perse. Mémoires publiés sous la direction de M. J. de Morgan, délégué général. Tome IV. Textes Elamites-Sémitiques. Deuxième Série.* Paris, 1902.

II.—THE ORIGIN OF THE CODE

Hammurabi, the compiler of this code, who is identified by most Assyriologists with the Amraphel of Genesis xiv:1, was the sixth king of the first Babylonian dynasty.¹ He was a Semite, of a race which had probably entered Babylonia from Arabia and had gained a foothold among the non-Semitic Sumerian inhabitants. That Hammurabi and his dynasty did not belong to the native Sumerian stock is indeed evidenced by a Babylonian syllabary in which his name is treated as a foreign one, and is explained by *kintu rapashtu*, i. e., *the great family*. Furthermore, Hammurabi describes himself in the prologue to his code as "of the seed royal which Sin begat." This would seem to indicate an Arabian origin, for it is in Arabia that the moon-god Sin² was called "the creator-god," and his cult was pre-eminent.

It would seem that the earliest days of the Semitic history of Babylonia were marked by a struggle with the ancient inhabitants, the Sumerians and the Semites alternately holding the mastery. Yet, although the basis of the civilization was Sumerian, the Semites, being strengthened by frequent additions from Arabia, gradually, as time rolled on, obtained the upper hand.

But Sumerians and Babylonians were not the only races brought into conflict there. When in 2250 B. C. Hammurabi came to the throne, it appears that Babylonia had for centuries been oppressed by Elamite invaders. Hammurabi's great military achievement was their expulsion from Babylonian soil; this he accomplished in the 33 year of his reign. His remaining years he devoted to the task of consolidating his empire. In his day for the first time in history was the whole of Babylonia united under one scepter, and the sway of her king extended as well to the suzerainty of Elam and Assyria and even to Syria and Palestine as far as the Mediterranean Sea.

Hammurabi was a great conqueror, but he was a consummate statesman as well. He proved himself such, on the one hand, by his conciliatory attitude toward the varying religious affiliations of his new subjects. Throughout the land he repaired and beautified the shrines of the local gods, and thus won the allegiance of their worshippers. Each of the old capitals, Ur, Erech, Nippur and Lagash to the south and Agane and Sippara to the north, was the seat of some one protecting deity, whose favor he was desirous of gaining. At Sippara the local divinity was the sun-god, Shamash, and it is Shamash's august figure that he had cut in relief on our stele, which once stood there.

The form under which Shamash was once worshiped at Sippara is familiar, for Mr. Hormuzd Rassam³ in his excavations at Sippara (Abu-habba) found beneath the ruined temple of Shamash a stone tablet with a beautiful bas-relief portraying the worship of the sun-god. This slab, 11½ in. high by 7 in. broad and 2 in. thick, is accompanied

¹ L. W. King: *The Letters and Inscriptions of Hammurabi*. 3 volumes. London, 1900.

² Ditlef Nielsen, *Die Altarabische Mondreligion*. Strassburg, 1904.

³ Rassam: *Asshur and the Land of Nimrod*, p. 402.

by a memorial inscription of King Nabu-apal-iddin of Babylon (879-853 B. C.). The sun-god sits on a carven throne with a canopy above him, which forms a kind of shrine or holy of holies, and the king is presented to him by two attendants. Before the shrine, resting on an altar, is a symbol of the sun; and above are two small figures who by means of guide-ropes direct the course of the sun in his diurnal course. Upon the wall of the shrine are smaller symbols of the sun, the moon, and Venus, and the inscription, which fills the slab beneath the bas-relief, explains the meaning of the sculpture; on the field of the bas-relief are also the words: "Image of Shamash, the mighty lord, who dwells in E-babbara (the brilliant house), which is in Sippara." Hammurabi tells us in the prologue to his code that he himself "rebuilt E-babbara for Shamash, his helper," and "decorated E-babbara, which is like a heavenly dwelling."

Hammurabi showed his political sagacity not only by his religiously hospitable attitude, but he showed also that he was a true statesman by establishing a uniform administration of justice throughout his realm. Before his unification of the independent cities of Babylonia into one kingdom there was, of course, no uniform code of laws in force throughout the land. The various small states, into which the country was broken up before his day, had doubtless their own code of customary law. That King Hammurabi drew upon these earlier codes in compiling the laws for his composite people has been proven by the discovery of a number of contract-tablets, antedating the reign of Hammurabi, which contain internal evidence of the existence of a body of laws under which the contracts were drawn up. A comparison of these documents with the laws of Hammurabi shows that the Babylonian law-giver made use of a legal phraseology which had become traditional in his day. All this goes to prove that Hammurabi at least utilized older laws and presumably incorporated some of them bodily in his collection. This conclusion, drawn from the legal phraseology, is based on Babylonian material. An examination of the family laws of the pre-Semitic Sumerians, whom the Semites finally absorbed, leads to the same conclusion; for Hammurabi's code contains a number of formulæ drawn from these Sumerian laws.¹ Remnants of old Sumerian family law, of ancient Arab shepherd law, and of early Babylonian law, as each obtained in the various small states into which the country was divided before Hammurabi's day, contributed something

¹ A fragment of a tablet in the British Museum numbered K. 251 contains, among others, the following Sumerian laws with Babylonian translation. See Paul Haupt *Sumerische Familien Gesetze*. Leipzig, 1879; *Trans. Soc. Bibl. Archaeology*, vol. viii, p. 230. With the first two compare Hammurabi Code, 192, 146; with the 3, Hammurabi Code, 142, 143, with the 4, Hammurabi Code, 137-140.

1. If a son say to his father, "My father thou art not," they shall brand him and sell him as a slave for silver.

2. If a son say to his mother, "My mother thou art not," his forehead they shall brand, from the city they shall banish him, from the house they shall drive him.

3. If a wife hate her husband and say, "My husband thou art not," into the river they shall throw her.

4. If a husband say to his wife, "My wife thou art not," half a mana of silver he shall weigh out to her.

to the new code. That this material, necessarily so diverse in its origin, should have been so successfully assimilated and recast into a code which was not only harmonious in content, but also logical in form, was an indication of no mean ability in the codifier. Moreover, the code was written in Semitic Babylonian—not in Sumerian, the language of the scholar, but in the vernacular; as Hammurabi says, "I established law and justice in the language of the land." It was all done by the appointment of the great gods. In the prologue Hammurabi defines his mission: "Anu and Bel called me, Hammurabi, the exalted prince, the worshiper of the gods, to cause justice to prevail in the land, to destroy the wicked and the evil, to prevent the strong from oppressing the weak, to go forth like Shamash over the Black Head Race, to enlighten the land and to further the welfare of the people."¹ And in the epilogue he says: "Let any oppressed man, who has a cause, come before my image as king of righteousness! Let him read the inscription on my monument! Let him give heed to my weighty words! And may my monument enlighten him as to his cause and may he understand his case! May he set his heart at ease! . . . Let him read the code and pray with a full heart before Marduk, my lord, and Zarpanit, my lady, and may the protecting deities, the gods who enter E-sagila, daily in the midst of E-sagila look with favor on his wishes in the presence of Marduk, my lord, and Zarpanit, my lady!"

These exhortations to the reader to pray before Marduk show, what was inherently probable on other grounds, that the original stele was erected before E-sagila, the great Marduk temple in Babylon. That Hammurabi should set up similar monoliths elsewhere was to be expected; that there was a copy even in the Elamite capital of Susa is proven by the discovery there of a fragment of such a stele. It should be also noted here that in 1898 broken portions of the code were unearthed in Assurbanipal's famous library at Nineveh (c. 650), which at the time, those keen scholars Dr. Bruno Meissner and Dr. Friedrich Delitzsch declared once formed part of an old Babylonian law-code dating from about 2300 B. C. These fragments, which are in the British Museum,² contain 17 enactments beside some 80 lines of the prologue. The Berlin Museum also has two small fragments of the code dating from about 550 B. C.

For many centuries these memorials of his greatness stood in the various cities of the Babylonian kingdom, and then, under a feebler dynasty, the kings from the mountains of Elam again pushed their way in and reconquered the land. Among the booty the spoiler carried off from the city of Sippara to grace his triumph was our copy of the Hammurabi stele. His purpose was no doubt to emphasize the fact that Hammurabi's Babylonian code was now abrogated and that the laws of Elam were to be supreme; but Babylonian civilization and the legislation on which that civilization rested could not so easily be over-

¹ Most of the translations given in this study are based on Robert F. Harper: *The Code of Hammurabi*. Chicago, 1904.

² British Museum tablets: No. R. M. 277 and No. D. T. 81.



BABYLONIAN CYLINDER-SEAL

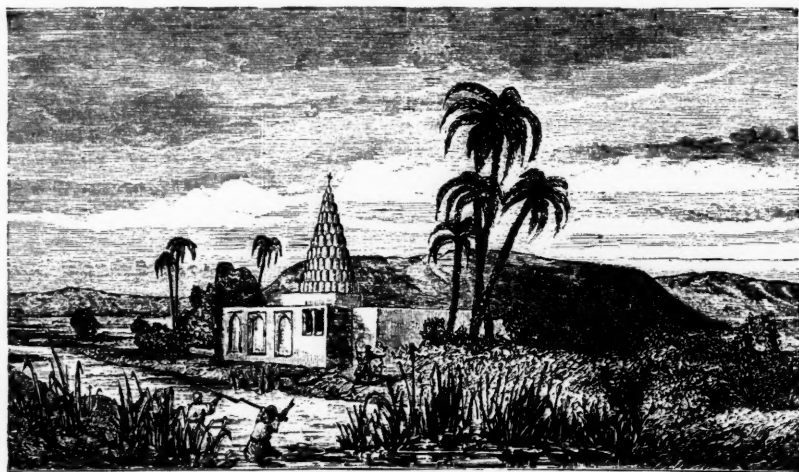
thrown. Hammurabi's code, being an outgrowth of the conditions of the people, survived not only in Babylonia and Assyria as the basis of all subsequent legislation down to the fall of both empires, but also, carried along with Babylonian trade and literature to all parts of the empire, even, be it noted, to Palestine, survived, so far as modifying conditions allowed, in the life and culture of other peoples.

Hammurabi's stele is an interesting object. It resembles in some respects the one found at Sippara, already described; like that and many other Babylonian monuments, it contains both a bas-relief and text. The bas-relief, which is 26 in. high and 24 in. broad, pictures Shamash seated upon a throne, with sun-rays springing from his shoulders. He wears the swathed headgear so common in Babylonian representations, and is clothed in a long flounced robe. His extended right hand clasps a ring and what may be either a scepter, the symbol of authority, or a stylus, the symbol of wisdom; compare also the very ancient Babylonian cylinder which represents the sun-god in his nightly journey across the waters of the under-world. In front of Shamash and facing him stands King Hammurabi in an attitude of adoration. As Hammurabi speaks of himself in the epilogue to the code as "the king of right to whom Shamash has communicated the laws," the bas-relief would seem to be a portrayal of Hammurabi in the act of receiving from Shamash, "the judge of gods and men," the laws with which the rest of the stele is taken up. The king has upon his head a cap with fillet, and he is clothed in a long tunic, hemmed in at the waist and reaching in long folds to his feet. His right hand is raised in a gesture of reverent worship, and his left is crossed before him and rests against his waist. It will be seen that this representation of Hammurabi differs very slightly from the portrait sculpture of him in the possession of the British Museum. Such is the bas-relief; below it there is the inscription, which covers also the back of the monument. There are

some 3600 lines of text, which are arranged in 44 columns, and in addition to a prologue and epilogue record 282 edicts. The Elamite conqueror who carried off the stele to Susa caused 5 columns, containing some 35 ordinances, to be chiseled out and polished smooth, evidently with the intention of inscribing upon the stele a record of his own achievements—a purpose, however, which he never fulfilled. The contents of these erased columns can be in part surmised from the fragments of the code found in Assurbanipal's library.

III.—AN ANALYSIS OF THE CODE

Hammurabi or his jurists followed a well-considered order in their arrangement of the code. His fundamental principle¹ was "the log-



THE RUINS OF SUSA, WITH SO-CALLED TOMB OF DANIEL. FROM A SKETCH BY H. A. CHURCHILL, ESQ., C. B.

ical relation of the individual laws to one another. Several related laws form a group, several groups a larger group, several of these a still larger group."

The first 5 enactments are in the nature of an introduction, and is very proper for the opening of a law-code; they go to the very source of all justice and deal with false accusation and impartial trials. The opening enactment is most sweeping: "If a man bring an accusation against a man and charge him with a (capital) crime, but cannot prove it, he, the accuser, shall be put to death." The second specifies a not impossible case of false accusation in a land addicted as Babylonia was to magic and incantation—the accusation of using sorcery: "If a man

¹ The writer acknowledges his indebtedness in this analysis to his friend and sometime teacher in Babylonian-Assyrian, Professor David G. Lyon, Ph. D. of Harvard University, from whose article on "The Structure of the Hammurabi Code" he here quotes; cf. *Journal of American Oriental Society*, Vol. XXV, 2, p. 248 ff.

charge a man with sorcery, and cannot prove it, he who is charged with sorcery shall go to the river; into the river he shall throw himself, and if the river overcome him, his accuser shall take to himself his house (estate). If the river show that man to be innocent, and he come forth unharmed, he who charged him with sorcery shall be put to death. He who threw himself into the river shall take to himself the house of his accuser." The next 3 enactments have to do with further offenses against the purity of the court: bearing false witness and the venality of a judge. In the latter case the corrupt judge was required to pay 12 times the amount of his false judgment and was expelled from the bench.

Barring this introductory section (1-5), the enactments of the code are arranged under two topics, according as they have to do with Property (6-126) or the Person (127-282). Each of these topics is subdivided into 3 groups. Property is considered under the divisions of Personal Property (6-25), Real Estate and Trade and Business Relations (26-126), the Person under the divisions of the Family (127-195), Injuries (196-214), and Laborers and Labor (215-282).

In the consideration of property (6-126), in particular personal property (6-125), theft is first taken up and is analyzed under degrees of guilt. Under theft of things (6-13), a theft from the temple or the palace (6-8) was treated much more severely than a theft from a private house (9-13). If the goods be temple or palace furniture or treasure, the punishment is death; if it be a sheep or the like, or a boat that is stolen, the thief must restore it 30 fold. It is noteworthy that the thief and the receiver of stolen goods are held as equally guilty. Kidnaping a minor (14), inducing a slave to run away, harboring or appropriating a slave, are all (15-20) as theft punishable by death, as are also the more aggravated forms of theft (21-25), house-breaking and brigandage. The section ends with a particular case of theft: If one commit theft in a burning house, "that man shall be thrown into that fire."

In the group of laws on real estate there is a large collection relating to officials who were as feudatories endowed with estates, for whose good conduct they were responsible to the kings (26-41). The consideration of the fields of these vassals paves the way for a new section.

This section on private property (42-65) is made up of enactments relative to the cultivation of fields in general (42-56), the responsibilities of shepherds (57-58), and various regulations concerning gardeners (59-65). Two of these regulations are remarkable for wisdom and justice: The rule that in case flood or drought has destroyed a debtor's crop, the payment of interest may not be demanded of him for that year; and the statement, which incidentally throws some light on the irrigation system, that any one who neglected to keep his dyke, or the part of it for the good condition of which he was responsible, in proper repair, was liable for the damage caused by a breach and had to make good the ruined grain.

Then follows a gap in the cuneiform text, which occupies the remainder of the front of the stele. It is estimated that 35 edicts have been lost. As those which begin on the reverse of the monument deal with merchants and their agents and are inadequately few (100-107), it has been plausibly conjectured that other enactments relating to agriculture and to the rental of houses which have been recovered elsewhere, once formed part of the sections here missing.

In the section on trade and business, after a consideration of merchants in general, follow 4 enactments (108-111) relating to wine-sellers, who seem to have been women, and the orderly conduct of their business. The last edict, which refers to selling drink on credit, develops naturally into sections relating to debt (112-119), and storage and deposit (120-126); and these conclude the laws relating to property.

The remainder of the code is occupied with laws that have to do with the person (127-282), those pertaining to the family (127-195) being taken up first. In considering the relation of man and wife (127-164), after an enactment on the slander of a wife and one on the marriage contract, the code devotes a considerable section (129-143) to laws governing the interruption of the marriage relation. In these laws, and those that follow on the rights of wives (144-152), the interest of the family as an institution is closely guarded, but a noteworthy consideration for the rights of the woman is everywhere apparent. A man who slandered a woman was to be branded on the forehead. A man who forced a betrothed woman was to be put to death and the woman was to go free. If a soldier be captured and there be no maintenance in his house for his wife, and she "enter into another house, that woman has no blame." In case, however, she have children, if later her first husband return, she shall return to him, but the children shall remain with their father. If a man desert his city and wife, and his wife marry another, her first husband, if he return, cannot lay claim to her. If a man wish to divorce his wife, her rights are clearly defined; he must give her money to the amount of her marriage settlement and he must make good to her the dowry which she brought from her father's house. Furthermore, a case similar to that of Abraham's wife Sarah and her bondmaid Hagar (Gen. xvi) is carefully provided for: "If a man take a wife and she give a maid-servant to her husband, and that maid-servant bear children and afterwards would take rank with her mistress, because she has borne children, her mistress may not sell her for money, but she may reduce her to bondage and count her among the maid-servants." The legislation protecting an invalid wife is most humane: "If a man take a wife and she become afflicted with disease, and if he set his face to take another, he may. His wife, who is afflicted with disease, he shall not put away. She shall remain in his house which he has built and he shall maintain her as long as she lives." After an enactment that "a woman who brings about the death of her husband for the sake of another man shall be impaled," there follows a small series bearing on the various forms of incest

(154-158), especially between a betrothed woman and her prospective father-in-law, and this is followed by regulation (159-161) respecting breach of promise and the consequent disposition of the bride-price or groom's present to his father-in-law (*tirkhatu*),¹ the dowry given by the father to the bride (*sherigtu*),² which often included the bride-price, and the settlement (*nudunnu*)³ the groom sometimes made upon his bride. The 3 sections which follow (162-164) decide the disposition of these in case of the wife's death. The laws of inheritance in general are naturally considered next (165-184); they range over the rights of children and widowed mothers, the rights of male and female slaves and their children, the right of a widow to re-marry, the rights of a priestess or a devotee, the rights of a concubine. A series on the adoption of a child (185-191) follows, and with 4 laws setting forth the punishment for certain possible crimes incident to the family (192-195) the laws relating to the family come to an end. Renunciation on the part of an adopted child of his foster father or mother was to be punished by mutilation, by the cutting out of his tongue or the plucking out of his eye, and the nurse who substituted another child for one who has died in her house while under her care was to have her breast cut off. The son who struck his own father was to have his fingers cut off.

The transition from these to a division dealing with injuries (196-214) is natural. The *lex talionis* is here somewhat in evidence. "If a man destroy the eye of another man, they shall destroy his eye." "If one break a man's bone, they shall break his bone." "If a man knock out a tooth of a man of his own rank, they shall knock out his tooth." "If a man strike a man's daughter and bring about a miscarriage, and that woman die, they shall put his daughter to death." The laws quoted are only the ones demanding such cruel retaliation. In many cases compensation is allowed and injuries are appraised on a regular sliding scale, the penalty in the case of injury to a freeman being greater than for a like injury to a freedman or a slave.

The next group of laws, those on laborers and labor (215-282), more particularly free labor (215-240), furnish some of the most interesting enactments of the code.

The first relate to the operations and errors of surgeons, veterinaries, and branders (215-227). Surgeons received fees, graduated according to the social standing of their patient; this was in case of a cure. In case death claimed the patient, if he were a slave, the unfortunate surgeon had to restore to the owner a slave of equal value; if he were a freeman or a freedman, the surgeon had his unskilled fingers cut off. The code in like manner regulated the fees of veterinary surgeons and their fines for failure to cure.

¹ Compare the Hebrew *mohar* (Ex. xxii:15, Gen. xxxiv:12, I Sam. xviii, 25-27). In old Arabic custom the *mohar* was sometimes given, not to the father-in-law, but to the bride.

² The only case of dowry (*berakah*, "blessing") in the Old Testament occurs in Judges i:15 and the parallel narrative, Jos. xv:19; unless the passage Gen. xxxi:15 shows that among the early Hebrews, as among the Arabs, the *mohar* sometimes became the bride's dowry.

³ In Gen. xxxiv:12 we find a marriage settlement (*mattan*) noted.

The code interests itself next with house-builders and their responsibilities (228-233). The *lex talionis* appears here again. "If a builder build a house for a man and do not make its construction firm, and the house which he has built collapse and cause the death of the owner of the house, that builder shall be put to death." "If it cause the death of a son of the owner of the house, they shall put to death a son of that builder." "If it cause the death of a slave of the owner of the house, he shall give to the owner of the house a slave of equal value." House-building leads naturally to the consideration of boat-building, and this to boatmen and their responsibilities (234-240). So much for skilled labor.

The enactments that follow have to do with unskilled labor (241-277). First we have the laws governing agricultural life—oxen, their hire and care, the wages of field-laborers, herdsmen, shepherds and artisans, and their responsibility for loss. And the code concludes with 5 enactments (278-282) on the purchase of slaves and the heavy penalty to be inflicted on the slave guilty of an attempt to repudiate his master—"his master shall prove him to be his slave and shall cut off his ear."

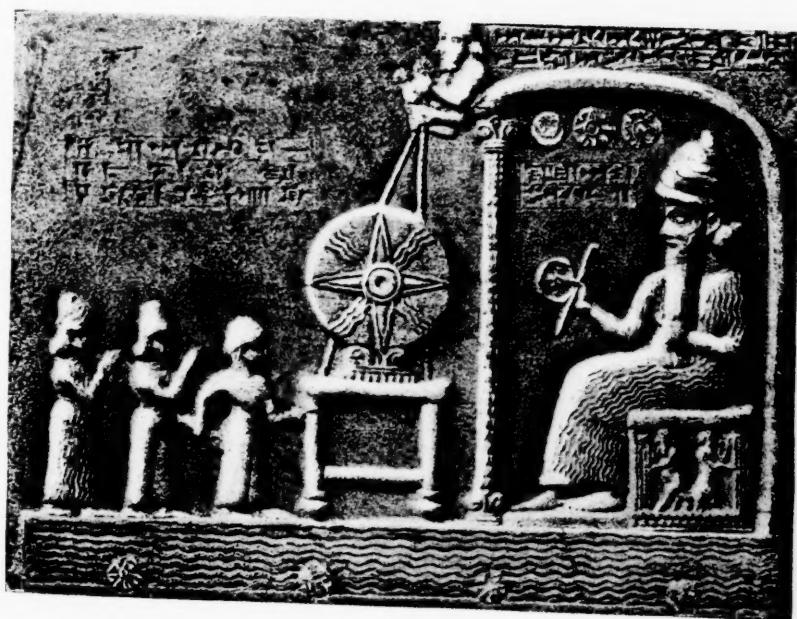
IV.—THE CODE OF THE COVENANT

Before the discovery of the Hammurabi stele, the legislative portions of the Old Testament had long held the distinction of being the oldest extant collection of laws in the world; for the ancient Egyptian code to which Diodorus Siculus (57 B. C.) alludes¹ has unfortunately never been recovered, and as for the noteworthy collections of antiquity which have been preserved to us, even the Hindoo code called the Laws of Menu (c. 950 B. C.) and the Laws of the Twelve Tables of Rome (formulated c. 450 B. C.) are confessedly younger than the oldest law-collections of the Pentateuch. These two oldest codes, the Hammurabi and the Pentateuchal, are therefore brought into comparison, and the question is raised as to the possible relation of the one to the other. A comparison cannot, however, be profitably instituted with the Pentateuch as a whole, for the legislation of the Pentateuch has been shown by literary criticism to consist of different strata. Of these, that portion which Exodus xxiv:7 calls the Book of the Covenant is now generally recognized as the oldest. The successive strata—the Decalogue (Ex. xx:1-17), the Deuteronomic Code (Deut. xii-xxvi), and the Holiness Code (Lev. xi-xxvii)—were of later origin, publication, and addition to what had become generally known as the Law of Moses. Each of these codes might be compared with that of Hammurabi and parallels found; but as it is not in the development of the Hebrew law but in its origin that we are interested, we shall confine our examination to the Book of the Covenant. Hexateuchal criticism is agreed that the Book of the Covenant (Ex. xx:22-xxiii:33) is the oldest law collection in the Old Testament. We need not here discuss its date, for we have a sufficient *terminus a quo* in the fact that the code could

¹ Diod. I.



HAMMURABI



BAS-RELIEF ON A TABLET FROM THE TEMPLE OF THE SUN-GOD AT SIPPARA

have been worked out only by an agricultural people, having settled possessions in house and field.

The older criticism treated the Book of the Covenant as though it were a homogeneous composition; but it has been since perceived that it is in reality compiled from two earlier collections.¹ The one collection was made up of cultus laws which were called "Words" (*debharim*). This collection (Ex. xx:22-26, xxii:29-31, xxiii:10-19, 20-33) was concerned exclusively with instructions for the proper worship of Yahveh. Its enactments were not founded on custom and usage, but were regarded as derived immediately from Yahveh and as owing their origin to a personal command from Him. These "Words," we are told, were recorded by Moses in a book, and it was on the basis of these "Words" that Yahveh entered into a covenant with Israel (cf. Ex. xxiv:4-8).

The other collection from which the Book of the Covenant was compiled was a book of "Judgments" (*mishpatim*).² These enactments or decisions of judges have to do with the protection of life and property, and they consequently form a civil and criminal code. It is this secular code (Ex. xxi:1, xxii:28, xxiii:1-9) that we must now compare with the civil and criminal code of Hammurabi.

V.—THE COVENANT CODE AND THE CODE OF HAMMURABI.

THE TREATMENT OF SLAVES

Ex. xxi:2. If thou buy a Hebrew slave, he shall serve 6 years; and in the 7 year he shall go free without money.

xxi:7. If a man sell his daughter to be a maid-servant, she shall not go out as the man slaves do.

The Hebrew Code provides further for the maid-servant:

xxi:8-11. If she please not her master who designated her for himself (*i.e.*, as a concubine), then shall he suffer her to be redeemed; he shall have no power to sell her to a foreign people, because he hath dealt unfaithfully with her. And if he designated her for his son, he shall deal with her according to the right of daughters. If he take another woman for himself, he shall not diminish her flesh-meat, her clothing, and her cohabitation. And if he do not

117. If a man be in debt and sell his wife, son, or daughter, or bind them over to service, for 3 years they shall work in the house of their purchaser or master; in the 4 year they shall be given their freedom.

The Babylonian Code shows the same feeling in regard to the estrangement of slaves from their native land:

280. If a man purchase a male or female slave in a foreign country, and if, when he comes back to his own land, the (former) owner of the male or female slave recognize his male or female slave—if the male or female slave be a native of the land, he shall grant them their freedom without money.

In another place the Babylonian Code provides:

¹ Consult George F. Moore's article, "*Exodus (Book)*," in *Encyclopaedia Biblica*, vol. ii.

² Hammurabi calls his code "judgments, or enactments, of justice." Col. XL, l. 1.

these 3 things to her, then shall she go out for nothing without money.

171. If the father during his lifetime have not said to the children which the maid-servant bore him: "My children;" after the father dies, the children of maid-servant shall not share in the goods of the father's house with the children of the wife. The maid-servant and her children shall be given their freedom. The children of the wife may not lay claim to the children of the maid-servant for service.

In the matter of slaves, therefore, both codes provide that the period of service shall be limited. The Hebrew frees the bond servant in the 7 year; the Babylonian in the 4 year. In the case of the bond woman, the Hebrew code provides that all slaves discovered in foreign servitude; the Babylonian provides that all slaves discovered in foreign lands shall be set free. The Hebrew code further provides that the bond woman to whom her master does not fulfill the 3 conditions of concubinage shall go free; the Babylonian provides that even though her master should die without having recognized her children as his own, they may not be held as slaves—she and her children shall go free.

ACCIDENTAL HOMICIDE

Ex. xxi:12-13. He that strikes a man so that he die, shall surely be put to death. But if a man lie not in wait, but God caused it to happen to his hand, I will appoint thee a place to which he shall flee (viz., the altar).¹

206-8. If a man strike another in a quarrel and wound him, if he die as the result of the stroke, he shall swear: "I struck him without intent," and if he be a man (*i. e.*, freeman), he shall pay one-half mana of silver; if a freed-man,² one-third mana of silver.

ATTACK UPON PARENTS

Ex. xxi:15. He that strikes his father and his mother shall surely be put to death.

Ex. xxi:17. He that curses his father or his mother shall surely be put to death.

195. If a son strike his father, they shall cut off his fingers.

192. If the son of a *nersega*, or the son of a devotee, say to his foster-father or his foster-mother, "My father thou art not," or "My mother thou art not," they shall cut out his tongue.³

¹ Cf. Otto Procksch: *Ueber die Blutrache bei den vorislamischen Arabern*, p. 44. Leipzig, 1899.

² *Mash-en-kak*. The status of the men so designated is in dispute; they seem to have ranked between the men of property and position and the men of slaves; possibly a freedman; cf. Hebr. *misken*, "a poor man."

³ Compare the Sumerian laws quoted above.

MAN-STEALING

Ex. xxi:16. He that steals a man, one of the children of Israel, whether he shall sell him or whether the stolen man be found in his hand, shall surely be put to death.

14. If a man steal a man's son, he shall be put to death.

BODILY INJURIES

Ex. xxi:18-19. If men contend, and one strike the other with a stone, or with his feet, and he die not, but keep his bed; if he rise and walk abroad upon his staff, then he that struck him shall be quit, only he shall pay for the loss of his time and shall cause him to be thoroughly healed.

Ex. xxi:22. If men strive together and hurt a woman with child, so that her children come forth, but no (other) mischief follows: he shall surely be fined, according as the woman's husband shall lay upon him, and he shall pay for the miscarriage.¹

Ex. xxi:23-25. But if (further) mischief follow, then thou shalt give life for life, eye for eye, tooth for tooth, hand for hand, burning for burning, wound for wound, stripe for stripe.²

Ex. xxi:26-27. If a man smite the eye of his servant, or the eye of his maid, and destroy it, he shall let him go free for his eye's sake. And if he smite out his man-servant's tooth, or his maid-servant's tooth, he shall let him go free for his tooth's sake.

206. If a man strike another in a quarrel, and wound him, he shall swear: "I struck him without intent," and he shall be responsible for the physician.

209. If a man accidentally strike a man's daughter and bring about a miscarriage, he shall pay 10 shekels of silver for her miscarriage.

210. If that woman die, they shall put his daughter to death.

The *lex talionis* is also found elsewhere in the Hammurabi Code:

196. If a man destroy the eye of another man, they shall destroy his eye.

197. If one break a man's bone, they shall break his bone.

200. If a man knock out a tooth of a man of his own rank, they shall knock out his tooth.

Compare also the law governing the responsibility of a herdsman:

263. If he lose an ox or sheep which is given to him, he shall restore to their owner ox for ox, sheep for sheep.

199. If one destroy the eye of a man's slave, or break a bone of a man's slave, he shall pay $\frac{1}{2}$ his price.

¹ In place of *pelilim* read with Budde *nephalim*.

² Compare W. Munzinger: *Ueber die Sitten und das Recht der Bogos*, sec. 193b; also the XII Tables (viii, 2): "If a man break another's limb and does not compound for it, he shall be liable to retaliation."

CRIMINAL NEGLIGENCE

Ex. xxi:28. If an ox gore a man or a woman that they die, the ox shall surely be stoned and his flesh shall not be eaten,¹ but the owner of the ox shall be quit.

Ex. xxi:29-31. But if the ox were wont to gore in time past and it has been made known to his owner and he has not kept him in, and he shall kill a man or a woman, the ox shall be stoned and his owner also shall be put to death. If there be laid on him a ransom, then he shall give for the redemption of his life whatsoever is laid upon him. Or if it has gored a son or a daughter, according to this judgment shall it be laid upon him.

Ex. xxi:32. If the ox gore a male or female slave, he shall pay their master 30 shekels (*i. e.*, $\frac{1}{2}$ mana) of silver, and the ox shall be stoned.

250. If a bull, when passing through the street, gore a man and bring about his death, this case has no penalty.

251. If a man's bull have been wont to gore, and they have made known to him his habit of goring, and he have not protected his horns or have not tied him up, and that bull gore the son of a man and bring about his death, he shall pay $\frac{1}{2}$ mana of silver.

252. If it be the servant of a man, he shall pay $\frac{1}{3}$ mana of silver.

HOUSE-BREAKING

Hebrew and Babylonian houses were as a rule very rudely and insecurely built, and the walls, consisting of clay, were easily broken through by thieves. Both of our codes take cognizance of this. Slaying a house-breaker at night in self-defense is allowed by the Covenant Code;² the Hammurabi Codes give the householder an even greater right:

Ex. xxii:2-3. If a thief be found breaking in and be struck that he dies, he (*i. e.*, the slayer) shall not incur the guilt of bloodshed. If the sun be risen upon him, he shall incur the guilt of bloodshed. He (*i. e.*, the thief) shall surely make restitution; if he have nothing, then he shall be sold for his theft.³

21. If a man make a breach in a house, they shall put him to death in front of that breach, and they shall thrust him therein.

¹ Compare the similar custom among pre-Islamic Arabs; also *Recht der Bogos*, sec. 204.

² The XII Tables (viii:12, 13) similarly allow that a thief caught at night in the act may be killed; but not after sunrise, unless he be armed and offer resistance.

³ The same provision for making restitution is found in the Babylonian law concerning the man who neglects to keep his dyke in repair, and so brings ruin upon his neighbor's field (53, 54): "The man in whose dyke the break has been made shall restore the grain which he has damaged. If he be not able to restore the grain, they shall sell him and his goods, and the farmers whose grain the water has carried away shall share (the results of the sale)."

TRESPASS AND LOSS

Ex. xxii:5. If a man shall cause (his own) field or vineyard to be eaten, and shall let his beast loose, so that it feed in another man's field, of the best of his own field and of the best of his own vineyard, shall he make restitution.¹

Ex. xxii:7-8. If a man deliver unto his neighbor money or goods to keep, and they be stolen from the man's house; if the thief be found, he shall restore two-fold. If the thief be not found, the owner of the house shall come near to God (to see) whether he have not put his hand on his neighbor's goods.

Ex. xxii:9. For every matter of trespass, whether it be for ox, for ass, for sheep, for raiment, or for any manner of lost thing, whereof one says, "This is it," the cause of both parties shall come before God; he whom God shall condemn shall restore two-fold to his neighbor.

57. If a shepherd have come not to an agreement with the owner of a field to pasture his sheep on the grass, and if he pasture his sheep on the field without the consent of the owner, the owner of the field shall harvest his field, and the shepherd who has pastured his sheep on the field without the consent of the owner of the field shall give over and above 20 *gur* of grain per 10 *gan* to the owner of the field.²

125. If a man give anything of his over on deposit, and at the place of deposit, either by burglary or pillage, he suffer loss in common with the owner of the house, the owner of the house who has been negligent and has lost what was given to him on deposit shall make good (the loss) and restore (it) to the owner of the goods; the owner of the house shall institute a search for what has been lost and take it from the thief.

124. If a man give to another silver, gold, or anything else on deposit in the presence of witnesses, and the latter dispute with him (or deny it), they shall call that man to account, and he shall double whatever he has disputed and repay it.

126. If a man have not lost anything, but say that he has lost something, or if he file a claim for loss where nothing has been lost, he shall declare his (alleged) loss in the presence of God, and he shall double and pay for the (alleged) loss the amount for which he had made claim.

¹The text of the verse has been restored from the Samaritan and Septuagint versions.

²The XII Tables (vii:6,7) prescribe that in case a quadruped damage the field of a neighbor, unless the owner make compensation, the quadruped shall be given to the aggrieved neighbor. If the owner intentionally

pasture his flock in his neighbor's field, he shall be liable to action at law.

Ex. xxii:10-11. If a man shall give his neighbor an ass, or an ox, or a sheep, or any beast, to keep, and it die, or be hurt or driven away, no man seeing it: the oath of Yāhveh shall be between them both whether he has not put his hand on his neighbor's goods; and the owner thereof shall accept (the oath), and he shall not make restitution.

Ex. xxii:12. But if it be stolen from him, he shall make restitution to its owner.

Ex. xxii:13. If it be torn in pieces, let him bring it as a witness: he shall not make good that which is torn.¹

Ex. xxii:14. If a man borrow (a beast) of his neighbor, and it be hurt or die, the owner thereof not being with it, he shall surely make restitution; if it was hired, it came for its hire.

9. If a man, who has lost anything, find that which he has lost in the possession of (another) man; and the man in whose possession the lost property is found say: "It was sold to me, I purchased it in the presence of witnesses;" if the purchaser produce the seller who has sold it to him and the witnesses in whose presence he purchased it, and the owner of the lost property produce witnesses to identify his lost property, the judges shall consider their evidence. The witnesses in whose presence the purchase was made and the witnesses to identify the lost property shall give their testimony in the presence of God. The seller shall be put to death as a thief; the owner of the lost property shall recover his loss, the purchaser shall recover from the estate of the seller the money which he paid out.

266. If a visitation of God happen to a fold, or a lion kill, the shepherd shall declare himself innocent before God, and the owner of the fold shall suffer the damage.

267. If a shepherd be careless, and he bring about an accident in the fold, the shepherd shall make good in cattle and sheep the loss through the accident which he brought about in the fold, and give them to their owner.

244. If a man hire an ox or an ass, and a lion kill it in the field, it is the owner's affair.

263. If (a herdsman) lose an ox or a sheep which is given to him, he shall restore to their owner ox for ox, sheep for sheep.

¹ Baentsch suggests that Jacob's words to Laban, referring to the old shepherd law (Gen. xxxi:39, E.), display a knowledge of the Book of the Covenant.

SEDUCTION

Ex. xxii:16. If a man entice a virgin who is not betrothed, and lie with her, he shall surely pay a bride-price for her to be his wife.

130. If a man force the (betrothed) wife of another who has not known a male and is living in her father's house, and he lie in her bosom, and they take him, that man shall be put to death and the woman shall go free.

PLEDGE

Both codes exhibit here a humane feeling: the Hebrew, addressing itself to wandering tribesmen, to whom, as to the Bedouin of today, their cloaks were their covering by night, legislates against the taking of these in pledge; the Babylonian, addressing itself to a community, a large part of which were agriculturists and thus dependent on their oxen for their means of support, legislates against taking from them this means of earning their living.

Ex. xxii:26. If thou at all take thy neighbor's garment to pledge, thou shalt restore it to him by sundown, for that is his only covering.

241. If a man seize an ox for debt, he shall pay $\frac{1}{3}$ mana of silver.

JUDICIAL INTEGRITY

Ex. xxiii:1-3, 7-8. Thou shalt not take up a false report: put not thine hand with the wicked to be an unrighteous witness. Thou shalt not follow a multitude to do evil; neither shalt thou bear witness in a cause to turn aside after a multitude to wrest judgment. . . . Keep far from a false matter; and the innocent and righteous slay thou not: for I will not justify the wicked. And thou shalt not take a gift: for a gift blindeth those that have sight and perverteth the words of the righteous.

3. If a man, in a case (pending judgment), bear false witness, or do not establish the testimony that he has given, if that case be a case involving life, that man shall be put to death.

4. If a man (in a case) bear witness for grain or money (as a bribe), he shall himself bear the penalty imposed in that case.

5. If a judge pronounce a judgment, render a decision, deliver a verdict duly signed and sealed, and afterward alter his judgment, they shall call that judge to account for the alteration of the judgment which he had pronounced, and he shall pay twelvefold the penalty, which was in said judgment; and in the assembly, they shall expel him from his seat of judgment, and he shall not return, and with the judges in a case he shall not take his seat.¹

¹ The XII Tables (ix) ordered the execution of any judge convicted of receiving a bribe.

VI.—CONCLUSION

Our comparison of the Hebrew Code with the Babylonian has made apparent a general similarity, the enactments of both being put in the same hypothetical form; but this contingent form is by no means peculiar to these codes. Besides, this is superficial. More striking is the remarkable resemblance in substance—the many cases of similar or analogous legislation. These are too numerous to admit the explanation of accidental resemblance, and they consequently raise the question of the relation of the two codes. It being manifestly impossible on chronological grounds that the Babylonian laws could have been borrowed from the Biblical, it would seem that only two possible theories remain—either both codes must have been derived from a common source, or the Covenant Code must have been influenced directly or indirectly by the Code of Hammurabi. It would seem, however, that this is not a case where either of two theories is tenable and the other untenable, but a case where both theories are true in part.

The advocates of the former theory, who hold that the codes had a common origin in ancient customary law, have a strong argument. The Hammurabi Dynasty was a foreign one, presumably coming from the original Semitic home in Arabia. Furthermore, from the time of Gudea (c. 3000 B. C.) trade relations had existed between Arabia and Babylonia, and traffic with Arabia would inevitably bring in its train further knowledge of Arabian customs and laws. By Hammurabi's day, and probably much earlier, these early elements and importations would have been digested and absorbed into the general body of Babylonian law and the whole would have assumed a form distinctly Babylonian.

Those who hold this theory refer back to the Covenant Code, also to ancient Arabic customary law, and claim for it the same process of development. Exodus xviii:14-16 says that Moses,¹ the great law-giver of the Hebrews, had for his teacher his father-in-law, the Arabian Kenite Jethro, who instructed him in the method of legal procedure. The value of this tradition, preserved by an early Elohistic prophetic writer, is frankly and gratefully recognized. But whatever Moses may have learned from Jethro, it certainly was not a code of laws applicable to the needs of a settled agricultural community. What the Bedouin sheikh imparted to him was such customary laws as had grown up and were usable in the nomad life of Arabia. How the

¹ The legend preserved in the *Priestly History Book* (Gen. xi:31; xii:4), that Abraham, the Hebrew race-father, was a native of Ur of the Chaldees is not cited here. Quite apart from the question of the historicity of the statement, one might doubt whether whatever recollection of Babylonian law the Abrahamidae may have carried into the west would not soon become obliterated through disuse. And as for the influence of the Babylonized life of Canaan upon Abraham, Isaac, and Jacob, the same principle of unusableness would still be effective. Customs and laws can only there be introduced into the life of a people where they find an application to similar modes of life, social conditions, and interests. Babylonian law never affected the Bedouin, who pressed even up to the borders of Babylonia, and it was because of the wide difference in viewpoint and modes of life that severed the two peoples. We can think of the Babylonian and proto-Hebrew life as furnishing the same contrast. Of what use could Hammurabi's highly developed law be to a band of rude nomads?

Hebrews developed this law under new agricultural conditions in Canaan is another question, and brings us to the second theory—that the Covenant Code was directly or indirectly influenced by the Code of Hammurabi.

When the Hebrews effected a settlement in Canaan they found there a people greatly their superior in culture; learning from this people the arts of civilization, they gradually passed from the unsettled life of nomad herdsmen into that of settled agriculturists. Their new home had long been under Babylonian influence. For centuries, certainly since the days of Abraham, which were also the days of Hammurabi, the rule of Babylon had extended to the shores of the Mediterranean Sea; and at the time of the Tel-el-Amarna tablets (*c.* 1450 B. C.), shortly before the Hebrew settlement in Canaan, not only as these letters show, was there a lively intercourse with Babylon, but the Babylonian language and cuneiform writing were actually used throughout Palestine in carrying on international communication. In their new home, therefore, the Hebrews found themselves in a land permeated with Babylonian influence and culture; that they were not unaffected by these is apparent in their earliest literature and institutions. The earlier chapters of Genesis rehearse stories first told on the banks of the Euphrates, and tell of institutions which had their beginnings in Babylonia. The Hebrew Sabbath, in both name and institution, was of Babylonian origin, however peculiarly Hebrew may have been its later development in Palestine. There was much beside in the Hebrew ritual and theological conceptions bearing marks of Babylonian source. As the Hebrews appropriated ancient Babylonian legends and institutions and recast them in accordance with their peculiar national genius, so, when the possession of landed property and the conditions of their new life in Canaan developed the need of fixed laws, they must have appropriated and adapted to their own use many of the provisions of the Babylonian law, in force long before their coming. But the foundation of the Babylonian law was the code of Hammurabi, and thus the enactments of the old Babylonian king, formulated in the XXIII Century B. C., passed more than 1,000 years later into the Book of the Covenant, and so became the heritage of the Hebrews and of the world.

MAX KELLNER.

EPISCOPAL THEOLOGICAL SCHOOL,
Cambridge, Mass.

AN ARCHAEOLOGICAL EXPEDITION TO THE COLUMBIA VALLEY*

ARCHAEOLOGICAL explorations of the Jesup North Pacific Expedition were carried on in 1897 by the author in the Thompson and Fraser River valleys of southern British Columbia; and in 1898-99 in the shell-heaps along the coasts of British Columbia and Washington. In continuance of the general archaeological reconnaissance thus begun in the Northwest, the Columbia Valley was chosen as the field for research during the field season of 1903. The region is exceedingly dry and supports no trees except in the river bottoms, or where irrigation has been successfully prosecuted. The country has come to be known for its production of fruit, hops, hay and wheat raised by means of irrigation.

The Museum already had some heterogeneous collections from the Columbia Valley in the vicinity of The Dalles and Portland, which indicated that the prehistoric culture of the region was different from that of either the coast of Washington or the Thompson River country. The latter lies immediately to the north of the Yakima Valley, which was chosen as the base of operations for the new investigations. It was thought that by working in the Yakima Valley the boundary between the culture of The Dalles and that of the Thompson River region might be determined. The material, however, discovered by the expedition seems to prove that the Yakima Valley was inhabited by people having a culture which previously had been unknown to science.

In the region were found numerous evidences of the close communication of the people of this culture with tribes of the Thompson River region. Underground house sites, tubular pipes, engraved dentalium shells, a decoration consisting of a circle with a dot in it, and rock-slide sepulchres, each of a particular kind, were found to be peculiar to both regions.

Considerable material of the same art as that found in The Dalles region was seen. It is clear that the people living in the Yakima Valley had extensive dealings with the tribes both northward, as far as the Thompson Valley, and southward, as far as The Dalles of the Columbia. In this connection it is interesting to note that the present Indians of the region travel even more extensively than would be necessary to distribute their artifacts this far. Much less evidence of contact between the prehistoric people of the coast of Washington and that of the Yakima Valley was discovered. A pipe, however, was seen which

*The first report of this expedition appeared in *The American Museum Journal*, Vol. IV, No. 1, January, 1904. It was slightly revised and appeared in *Science*, N. S., p. 579, Vol. XIX, No. 484, April 8, 1904. From these part of this article is abstracted by the author.

is clearly of the art of the northwest coast. It was found far up the Toppenish River, one of the western tributaries of the Yakima.

From the Yakima Valley the expedition was transferred to the lower Cowlitz River for work down that stream and along the Columbia from Portland to its mouth, partly to determine whether or not a portion of the evidences of coast culture which were found in the Yakima Valley had not come up the Cowlitz and down the Toppenish River, since the headwaters of the Cowlitz and the Toppenish are near each other. In this region many specimens were secured. The main work, however, was done in the Yakima Valley, where many photographs were taken, not only of archaeological sites, but also of the

country in general. Human remains, which are useful in determining the type of these old people, were also collected.

The most remarkable specimen secured was a piece of antler carved in human form.

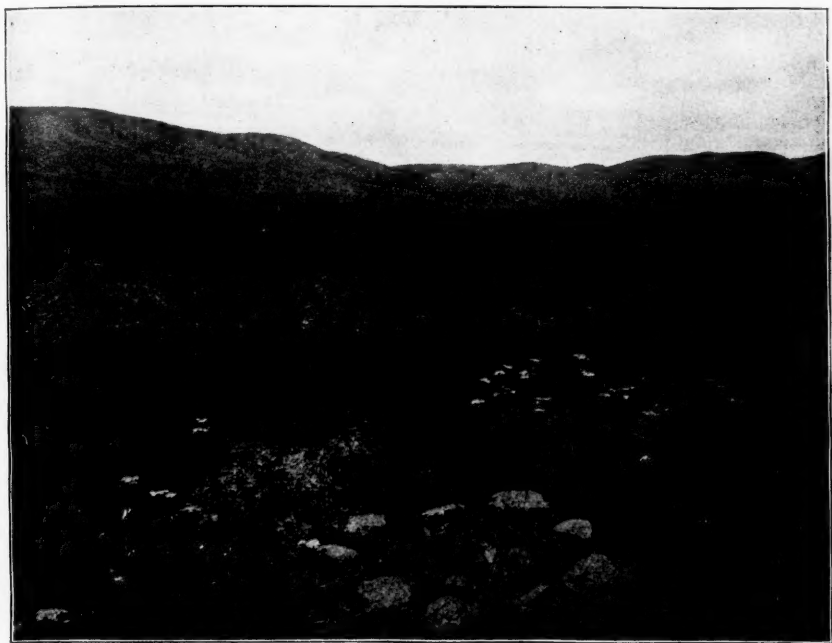
This was very thin, and when found it was nearly as soft as so much sawdust or moulder's sand pressed together tightly. Proper treatment has rendered the object quite hard and able to bear handling. It is made of antler, is 247 millimeters long, from 2 to 5 millimeters thick, and is engraved on one surface to represent a human figure in costume. This specimen was found in the grave of a child about 6 years old, which was situated near Tampico, in the Atanum Valley, Yakima County, Washington. The place is about 18 miles west of old Yakima.

In this arid region are stretches of country locally known as "scab land," on which are occasionally groups

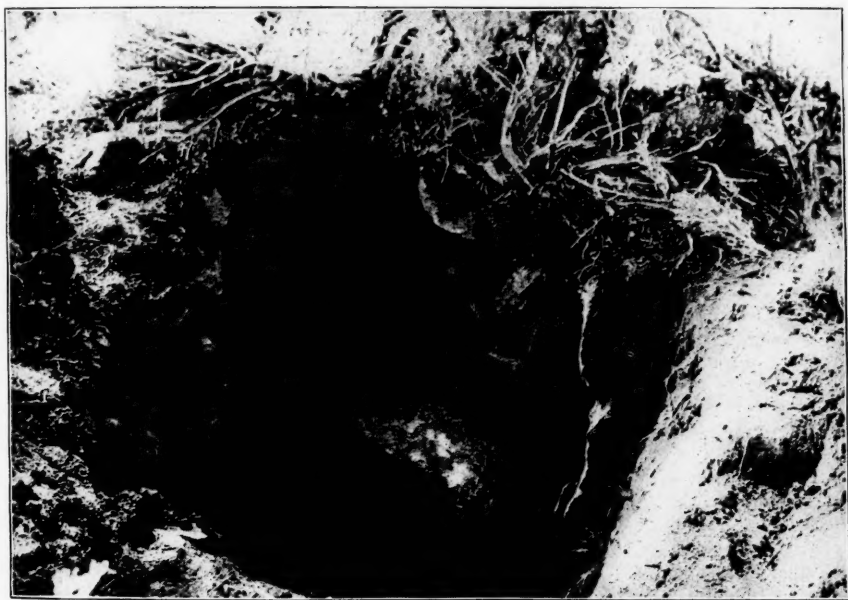


STONE PIPE. ART OF THE NORTHWEST COAST, FOUND FAR UP THE TOPPENISH RIVER, IN WASHINGTON.

of low, dome-shaped knolls from about 50 to 100 ft. in diameter by 3 to 6 ft. in height. These knolls consist of fine volcanic ash, and apparently have been heaped together by the wind. The prehistoric Indians of this region have used many of these knolls, each as a site for a single grave. These graves, which are located in the tops of the knolls, are usually marked by large river pebbles, or, in some cases, by



A GRAVE IN A KNOLL NEAR TAMPICO, WASHINGTON [FIG. 1]



STONE CIST IN THE GRAVE IN WHICH THE TAMPICO SPECIMEN WAS
FOUND [FIG. 2]

fragments of basalt, that appear as a circular pavement projecting slightly above the surface of the soil.

The particular grave in which this specimen was found was indicated by irregular and jagged basaltic rocks which formed a pile, about 8 ft. in diameter, on top of an ash dome, located on the bottom land about 600 ft. north of the Atanum River and about 15 ft. above the water-level.

These jagged rocks and the soil which had accumulated between them extended down to a depth of 3 ft. from the surface, where a box or cist was found, which was formed of thin slabs of basaltic rock about 2 ft. long by $1\frac{1}{2}$ ft. wide, and from $1\frac{1}{2}$ to 2 in. thick, with thin sharp edges. These had been placed on edge—several to form the sides and one or two to form the ends. The cist thus made was covered with two large flat slabs which projected beyond the sides of the box. There were no slabs or other rocks forming the floor to the cist, which was filled with soil that had worked in between the stones.

This was the only grave in which we found a stone cist, the other graves being more or less filled, from the skeleton to the surface, with irregular rocks or pebbles.

This cist may be perhaps best described by stating that it resembled very much the stone graves of Kentucky and Ohio, excepting that the limestone was not here used, and that the position of the skeleton and the character of the objects found within were not similar to those usually observed in the stone graves of the Mississippi Valley. It is also to be noted that here we have a pile of jagged rocks over the cist, as is seldom the case in the East.

Within the box and about on a level with the lower edges of the inclosing slabs was the skeleton of a child. It lay upon the left side, the head toward the west, facing north, and with the knees flexed close to the chest. The skull is slightly deformed by occipital pressure. Under the body, scattered from the neck to the pelvis, were found 18 dentalium shells. Ten of these are ornamented with engraved designs and resemble the engraved dentalium shells found in the Thompson River region. A small piece of bone and some charcoal were also found in this grave.

The grave and the specimens that were found in it seem to antedate the advent of the white race in this region, or at least to show no European influence. On the other hand, there was no positive evidence of their great antiquity.

The antler figure lay horizontally under the vertebræ of the child, with the engraved surface up. As the costume is apparently a man's, it would seem that the child had been of that sex. An ear-shaped projection may be noted on each side of the head-dress, too far from the head to indicate the ears, which are apparently omitted. These projections are perforated with 2 holes, and were probably intended to fasten the figure to something or as places of attachment for decorative or symbolic objects, such as feathers. Below the nose are faint suggestions of an ornament. The eyes are of the shape of a parallelogram



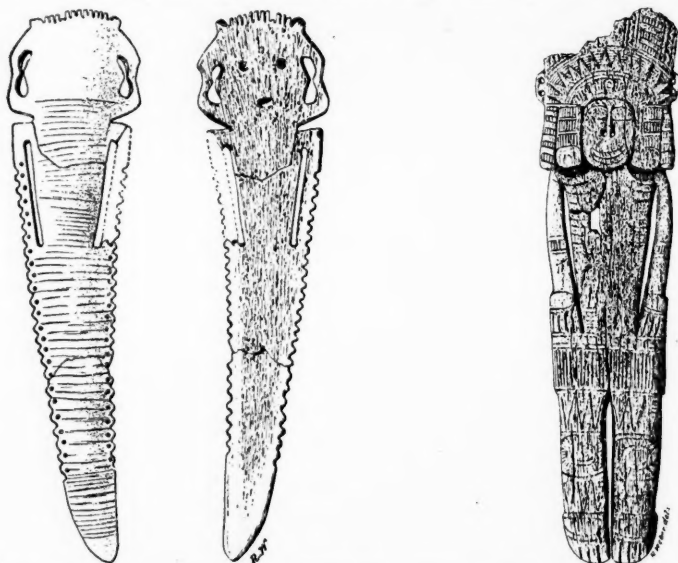
SKELETON OF A CHILD IN OPEN CIST IN THE GRAVE WHERE THE TAMPICO SPECIMEN WAS FOUND



HUMAN HEADS WITH FEATHER HEAD-DRESSES PAINTED ON THE BASALTIC CLIFFS WEST OF THE MOUTH OF COWICHE CREEK, WASHINGTON [FIG. 4]

with rounded corners. These, with similarly shaped figures on the head-dress or inner hair-rolls, and on the hands, knees, and insteps, slightly resemble a motive common in the art of the coast to the north-west.

Above the face is a zigzag line which may represent tattooing, painting, or a head-ring. The zigzag is a common form of decoration on the head-bands of the Sioux. Above the head, arranged in a semi-circular row, are certain oblong forms which may indicate feathers. The middle form in this row, however, is marked with a circle. At both the bottom and top of this row are 3 incised lines forming an arc. Based on the outer one of these incisions are isosceles triangles slightly in relief. These do not represent feathers in a realistic way, but closely resemble the conventional paintings made by the Sioux on buffalo robes. These paintings have been called sun symbols, but are inter-



QUILL-FLATTENER MADE OF ANTLER [FIG. 6] FIGURE MADE OF ANTLER FROM A CHILD'S GRAVE [FIG. 3]

preted by the Sioux as the feathers of a war bonnet or other head-dress. Paintings or tattooings representing the ribs, or the ribs themselves, are indicated by ridges. A bracelet, band, or figure painted or tattooed on the apparently bare arm is indicated in the middle of each by a vertical hachure connecting pairs of parallel lines.

The legs begin at the bottom of the apron, from which they are set off by two horizontal incisions. The incisions on the legs probably represent painting or tattooing, since the designs seem to be horizontal and to extend all around the legs, while on the leggings the patterns are usually vertical and on a flap at the outer side of the leg, the knee being disregarded.



FIG. [8]

PICTOGRAPHS, SOME PICKED IN AND OTHERS PAINTED ON THE BASALTIC CLIFFS AT SENTINEL BLUFFS, WASHINGTON

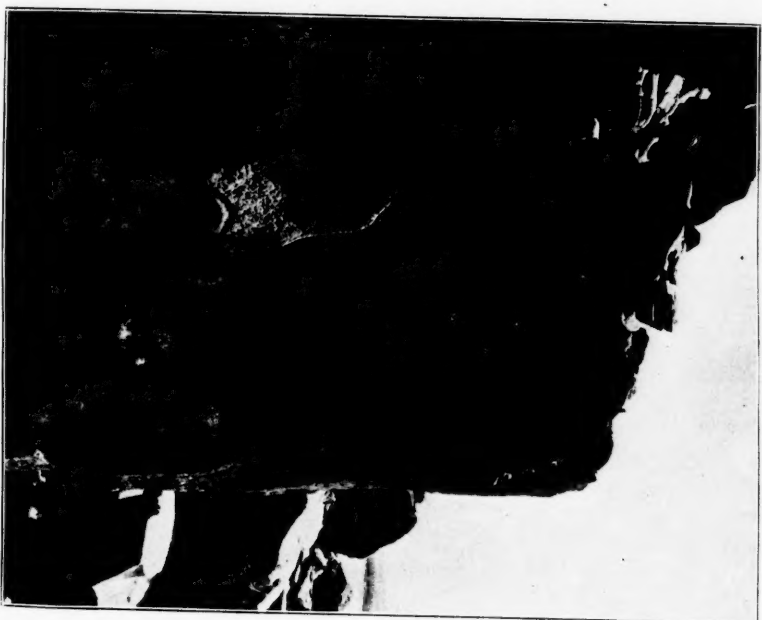


FIG. [7]

PICTOGRAPHS, SOME PICKED IN AND OTHERS PAINTED ON THE BASALTIC CLIFFS AT SENTINEL BLUFFS, WASHINGTON

Catlin figures paintings on the arms and the legs of the Mandans similar to the patterns on this carving. The custom is not rare, especially in connection with elaborate ceremonial costumes such as are represented by this figure. The concentric design probably is related to the wheel, sun, or spider-web pattern common as a symbol on the shirts, blankets, and tents of the Plains tribes.

The 2 feet, taken together with the lower portion of the legs, resemble a divided hoof. The divided hoof is a common design among the Plains tribes. The vertical incisions on the feet probably represent the toes, or designs painted or tattooed on the feet. These lines argue against any idea that the feet are incased in moccasins, unless head or quill work on or improbable wrinkles in the moccasins are indicated by them. The reverse of the object is plain.

The Indians of this region have painted with red and white on the basaltic cliffs in various parts of the Yakima Valley. Many of these paintings represent human heads, and some of them the whole figure. All of these are represented with a feather head-dress. Those shown in Fig. 4 are on the south side of the Natches River at the west of the mouth of Cowiche Creek and only 14 miles from Tampico.

Similar heads and figures, each with a feather head-dress, are represented by lines pecked into the surface of the basaltic columns on the eastern side of the Columbia River at Sentinel Bluff. These are only 47 miles from Tampico, and are shown in Figs. 7 and 8.

In general the shape of both the painted and pecked full figures resembles that of this specimen and the one shown in Fig. 6.

There are only two specimens of which I am aware that resemble this. One consists of 7 fragments of a thin piece of antler found by Mrs. James Terry at Umatilla, Oregon, only about 83 miles in a southerly direction from Tampico. Below the chin, at the left, are 4 incisions in a raised piece. This seems to represent a hand held with the fingers to the neck. A foot, with 4 toes in relief projecting above the brow as high as do the eyebrows, rests immediately above the upper horizontal incision and apparently indicates that some animal, possibly a bird, stood upon the human head. The fragment, however, is not sufficiently large to settle these points. Two of the other fragments are apparently intended to represent the heads of dogs. The eyes are indicated by the common circle and dot design; while the nostrils in one are represented by drilled dots. The animal heads and the feet and hands suggest the possibility that in some cases animal forms were combined with such figures, as on the northwest coast, although the general style of art of the object is not like Haida or Kwakiutl work, but more like the carvings of Puget Sound and the lower Columbia River. The fact that the carving of this face is more in relief helps to explain the intent of the author of the Tampico specimen.

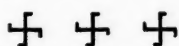
The other specimen is a quill-flattener, made of antler (Fig. 6). It was obtained by Dr. Clark Wissler from the Dakota at Pine Ridge, South Dakota, who also made reference to other objects of the same sort among the tribe. Porcupine quills were flattened on it with the

thumb-nail. The object in general resembles in shape and size the specimen from Tampico. The slight indications of the hair or head-dress, the deeply cut eyes and mouth in the concave side, the holes or ears at the sides of the head, and the method of indicating the arms by slits, setting them off from the body, are all details which emphasize this general resemblance. The technical work is about as good as that of the Tampico specimen, but the art work is inferior. On the surface are 26 horizontal incisions, which were interpreted as year counts. The general shape of the body and the rows of dots are similar to those of the figure pecked on the cliff at Sentinel Bluffs.

The Tampico specimen may have developed from a quill-flattener, which implement was probably of common and characteristic use among Indian mothers, not only of the plains, but also as far west as Tampico. If the result of such a development, it had probably lost its domestic use and become entirely symbolic.

The head-dress seems to be a so-called war bonnet, and would indicate that the figure was that of an important personage; perhaps a suggestion of what had been hoped for the child's position in the tribe or after death. The arms, body, legs, and feet are apparently bare and ornamented with ceremonial paintings, while about the waist is an apron. The whole object seems of a rather high order of art to be a mere child's doll, and it would seem more plausible to consider it as an emblematical figure. The general style of art and costume indicated show little or no resemblance to those of the Northwest coast, but a strong relationship to those of the plains.

HARLAN I. SMITH.



EDITORIAL NOTES

THE OLDEST GREEK INSCRIPTION IN ASIA MINOR:—What is believed to be the oldest Greek inscription yet discovered in Asia Minor has recently been brought to light. It dates from the III Century B. C., and was found east of the Halys.

THE HEAD OF GUDEA AND OTHER FINDS AT TELLOH:—Among the finds made by Capt. Croz, who succeeded M. de Sarzec in the work at Telloh, is a head belonging to a diorite statue. When this head was applied to one of the smaller statues of Gudea in the Louvre it was found to fit perfectly. Among other finds is a tablet on which are inscribed curses against the people of Gishku for the ruin which they wrought upon Lagash in the reign of Urukagina. M. Thureau-Dangin, who publishes a translation, remarks that it seems to have been written by a priestly person, who is anxious to see in this inter-civic struggle an act of sacrilege against Ningirsu, the god of Lagash. He also points out that at the moment the seat of government seems to have shifted to Uruk, or Erech, and that the advent of Sargon of Accad must soon after have put an end to these petty wars

between town and town. There may also be noted the study of a cylinder of the solar hero Gilgames, represented as a fisherman. To all of these M. Heuzey would attribute a Chaldæan origin. The cylinder in question, which was first brought to public attention in Lajard's *Culte de Mithra*, shows a person tightly cinctured, and with a wasp-waist, resembling the men on Mycenæan monuments.

SCULPTURED STONES IN AFRICA:—On the Cross River, in the southern country of Atam, there are many sculptured ornamental stones, which have been described by Charles Partridge in a recent book on *The Cross River Natives*. Most of these are carved in the rough semblance of men so far as the top of the stone is concerned, the natural shape of the stone, however, being very little altered. The rest of the figure is decorated in a very conventional manner, the navel being the most prominent feature. These stones are mostly water-worn basaltic blocks gathered from the neighboring river-beds. They are erected as memorials to dead chiefs and form an important part of the local ancestor-worship.

THE FOOD OF PRIMITIVE MAN:—M. Doigneau in a recent book on the Stone Age in France gives the following remarks concerning the food eaten by early men. "The condition of their teeth shows that men in the (cold and damp) Moustier period did not live exclusively on animal flesh, but on roots, and fruits of the earth; and, even apart from his dental system, the character of his skull and digestive organs suggests that primitive man, like his ancestors in the warm period, must have been frugivorous, and was only compelled to become omnivorous by the rigours of the Moustier climate."

LITTLE FIGURES FROM EGYPTIAN TOMBS:—M. Maspero has written for the Institut Egyptien an interesting article on the little figures "in the round" discovered in Egyptian tombs, which were much in evidence in the exhibitions of antiquities by M. Naville and Mr. Hall and by Mr. Garstang, respectively, held last year in London. He has little difficulty in showing that the object of burying these dolls—as they were at one time thought to be—with the dead, was to insure the continuance in the next world of the services of the baker, butcher, and brewer that they represent, and that they replaced the primitive slaughter of slaves upon the bier. He thinks that this interpretation can be applied even to the regiments of cavalry and infantry represented in a few instances, which were supposed to help the prince with whom they were buried to defeat his enemies in the Netherworld. He also gives some reasons for thinking that they were nearly always hidden in a pit or well, so that they might act as a sort of reserve if the tomb should be broken into and the frescoes, which were supposed to serve a like purpose, were destroyed. If any fault can be found with the essay, it is, perhaps, that the writer does not sufficiently insist on the essentially magical character of these rites, and on the belief, common to practisers of magic all the world over, that the pictured or sculptured representation of the act would cause similar action elsewhere.

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